

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

TYRONE DAVIS

Defendant-Appellant.

Case No. 2:12-cr-00289-JCM-VCF

ORDER

Presently before the court is defendant Tyrone Davis's motion to dismiss Yi Lin Zheng as his court-appointed counsel and appoint new counsel. (ECF No. 365). There has been no response.

Davis was appointed new counsel—namely, Yi Lin Zheng—on July 18, 2022, for future proceedings of his case. (ECF No. 361). The parties subsequently stipulated to continue Davis's resentencing hearing date to September 14, 2022. (ECF Nos. 362, 363). Davis's motion informs the court that, as of August 17, 2022, Davis has not been contacted by his attorney. (*Id.* at 1). Because of this, Davis claims counsel is ineffective. (*Id.*).

Local Rule IA 11-6(e) provides that “[e]xcept for good cause shown, no withdrawal or substitution will be approved if it will result in delay of discovery, the trial, or any hearing in the case.” While the Sixth Amendment guarantees criminal defendants the right to “reasonably effective” assistance of counsel, Davis has not demonstrated that his current counsel is reasonably ineffective. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984). Without more, brevity of communication between a defendant and his counsel does not warrant a finding of ineffective assistance of counsel. *See U.S. v. Lucas*, 873 F.2d 1279, 1280 (9th Cir.

1 1989) (citing *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir. 1984)).

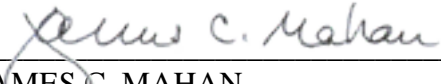
2 Davis's sentencing is currently scheduled for September 14, 2022. Limited
3 communication at this stage does not support a claim of ineffective assistance sufficient to
4 dismiss counsel. The court finds that granting substitution of counsel would unnecessarily
5 delay proceedings, and the court does not find good cause to do so.
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7 Therefore, the court finds it appropriate for Zheng to continue representing Davis for
8 the remainder of his criminal proceedings pursuant to 18 U.S.C. § 3006A, absent a future
9 finding by the court to grant dismissal or substitution of counsel for good cause.
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11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Davis's motion to
13 dismiss his counsel and appoint new counsel (ECF No. 365) be, and the same hereby is,
14 DENIED.
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16 DATED September 12, 2022.

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21 JAMES C. MAHAN
22 UNITED STATES DISTRICT JUDGE
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